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Before the
Federal Communications Commission
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of

Amendment of Section 73.606(b),
Table of Allotments,
TV Broadcast Stations
(Lake Havasu City, Arizona, and
Laughlin, Nevada).

Amendment of Section 73.622(b),
DTV Table of Allotments,
DTV Broadcast Stations
(Lake Havasu City, Arizona, and
Laughlin, Nevada).

MM Docket No. 99-114
RM - 8902

COMMENTS OF MOJAVE BROADCASTING COMPANY

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SUMMARY

Mojave Broadcasting Company (“Mojave”), permittee of proposed new television station KMCC, Channel 34, Lake Havasu City, Arizona and Petitioner in this proceeding, supports the reallocation of Channel 34 and paired DTV Channel 32 to Laughlin, Nevada and the modification of the station’s facilities to serve that community. The proposed reallocation will meet all technical requirements for both analog and digital television (“DTV”) operation and will serve to ensure the long-term viability of KMCC. If the requested change in community of license to Laughlin, Nevada is made, Mojave will submit an appropriate modification application and, upon its grant, promptly build the new station.

Laughlin, Nevada is a rapidly growing independent community with a strong economic base centering on the local gaming industry, tourism, and recreational opportunities in the Colorado River region. The community is a Census Designated Place governed by a town advisory board and town manager and has its own schools, police and fire stations, library, and medical center. Laughlin shares a \$23 million dollar airport with neighboring Bullhead City, Arizona; the airport serves more than 20,000 passengers per month, many of whom come to the eleven major casinos now open in or near Laughlin, which provide as many as 14,000 jobs and anchor the area’s economy. With the infrastructure already in place and the release of federal lands for further development, Laughlin will see continued growth and a strong economic climate in the future.

The relocation of KMCC to Laughlin, Nevada thus will serve to ensure the economic health of the station. Further, pursuant to an understanding with the NBC television network involving the licensees of NBC affiliated stations in the Las Vegas, Nevada and Phoenix, Arizona DMAs, KMCC as well as Kingman, Arizona station KMOH-TV expect to be able to

secure NBC affiliations and provide enhanced programming oriented to the southern Nevada and northwestern Arizona areas, respectively. As the Commission has repeatedly recognized, such an extension of network service is manifestly in the public interest. Moreover, affiliation with NBC will greatly strengthen KMCC as it endeavors to initiate operations as a new station in a small market and, concurrently, begin the costly transition to DTV operations.

Accordingly, Mojave respectfully requests that the Commission change the community of license of KMCC's analog and paired digital channels to Laughlin, Nevada and modify the station's authorization accordingly.

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Laughlin, Nevada).)	

COMMENTS OF MOJAVE BROADCASTING COMPANY

Mojave Broadcasting Company ("Mojave"), permittee of proposed new television broadcast station KMCC, Channel 34, Lake Havasu City, Arizona, and Petitioner in the above-captioned rulemaking proceeding,¹ by its attorneys, hereby submits its comments in support of the proposed change in the community of license of KMCC to Laughlin, Nevada and the modification of the station's facilities to serve that community. As demonstrated below, the proposed re-allotment will meet all pertinent technical requirements for both analog

¹ The Petition for Rulemaking was filed July 9, 1996 in the name of Meridian Communications Company ("Meridian"). On July 30, 1997, the Commission approved the pro forma assignment of the KMCC construction permit from Meridian to its wholly-owned subsidiary, Mojave. FCC File No. BAPCT-970618IL. See Mojave's Supplement to Petition for Rulemaking filed February 9, 1998. Accordingly, Petitioner is referred to herein as Mojave.

operation on Channel 34 and digital operation on paired Channel 32, and will serve to ensure the long-term viability of KMCC and bolster the station's ability to serve the public interest. Mojave hereby confirms that, upon completion of the reallocation proceeding, it will submit an appropriate application for modification of KMCC's authorized facilities and promptly construct the new station to serve Laughlin, Nevada.

Introduction

As set forth in Mojave's Petition for Rulemaking and further demonstrated in these Comments, the proposed reallocation of Channel 34 (and the paired DTV channel) from Lake Havasu City to Laughlin is fully consistent with the Commission's Report and Order in MM Docket No. 88-526 (Amendment of the Commission's Rules Regarding Modification of FM and TV Authorizations to Specify a New Community of License), 4 FCC Rcd. 4870 (1989) ("1989 Report and Order"), recon. granted in part, Memorandum Opinion and Order in MM Docket No. 88-526, 5 FCC Rcd. 7094 (1990) ("1990 MO&O"). In that proceeding, the Commission amended Section 1.420 of the Commission's rules to establish a procedure whereby a licensee or construction permit holder may seek an amendment of the FM or Television Table of Allotments to specify a different community of license without placing its existing authorization at risk. In its rulemaking decisions adopting the simplified procedure, the Commission indicated that such a change in the community of license of a TV or FM station will be approved where, as here, (i) the new allotment is mutually exclusive with the existing allotment and (ii) the allotment to the new community "would result in a net service

benefit for the communities involved (that is, if the plan would result in a preferential arrangement of allotments).” See 1989 Report and Order, 4 FCC Rcd. at 4873.²

Mojave submits that the amendments to the Television and DTV Tables of Allotments proposed here meet the Commission’s criteria. The proposed change in the community of license of KMCC to Laughlin is, of course, mutually exclusive with the existing allotment to Lake Havasu. Further, while Mojave recognizes that the Commission also has indicated that the removal of a community’s only existing television service is disfavored, see 1990 MO&O, 5 FCC Rcd. at 7096,³ the presumption against removal of a sole television transmission service may be waived where to do so might better serve the public interest. Id.

The Commission subsequently has made clear, moreover, that for purposes of this rule, the term “existing service” refers to a station which has been constructed and is currently operating. Farmington and Gallup, New Mexico, 11 FCC Rcd. 2357, 2360 (Chief, Allocations Branch, 1996). Thus, the removal of an unconstructed station, such as Mojave’s proposed facility on Channel 34, is “mitigated by the fact that [the station is] not a service upon which the public has come to rely”⁴ Further, the attached Engineering Statement

² The Commission also observed in its 1989 Report and Order that it has “generally been willing to apply the television priorities in a more liberal fashion than the FM priorities due to the recognition that television is a more regional service.” Id. at 4876(n.8)(citations omitted). See also 1990 MO&O, 5 FCC Rcd. at 7098-99(n.4).

³ Channel 34 is the only TV channel now allotted to Lake Havasu City. The community also is served, however, by commercial radio stations KBBC(AM), KRRK(FM), KJJJ(FM), KZUL-FM, and KANG(FM) (apparently not yet on the air), and by noncommercial educational FM station KNLB. Broadcasting and Cable Yearbook 1999, p. D-21. Laughlin, Nevada has no existing TV service or allotment. Laughlin is the city of license of KLSQ(AM), KLUK(FM), and KADD(FM). Id. at D-278.

⁴ Id. See also Saltville, Virginia and Jefferson, North Carolina, 10 FCC Rcd. 7578
(Continued...)

prepared by John A. Lundin of duTreil, Lundin & Rackley, Inc. demonstrates that, from a technical standpoint, Channel 43 or any of several other UHF television channels could be allotted to Lake Havasu City to replace Channel 34, should there be an expression of interest in preserving a local television transmission outlet for the community. See Engineering Statement at 1.⁵

The allotment of Channel 34 and the paired DTV channel to Laughlin would further the Commission's television priorities by providing an independent and rapidly growing community with its first local television transmission facility. As set forth in Mojave's Petition for Rulemaking, and as discussed further herein, the proposed reallocation of KMCC to Laughlin will greatly strengthen the station's ability to develop the audience and advertising support required to establish a new small-market station's economic viability as well as its ability to secure a major network affiliation. Indeed, based upon discussions with the NBC

(...Continued)
(Chief, Allocations Branch, 1995), aff'd, 11 FCC Rcd. 5234, 5236 (Chief, Policy and Rules Division, 1996).

The construction permit for the new station on Channel 34 (File No. BPCT-941031KN) was granted on May 1, 1996, when the Commission approved Meridian's settlement agreement with Venture Technologies Group, Inc. d/b/a World Television, Inc., resolving the conflict between their mutually exclusive applications. See Letter to Meridian Communications Company from Barbara A. Kreisman, Chief, Video Services Division, dated May 1, 1996. Thus, Meridian (Mojave) did not obtain its permit in a comparative hearing. See 1990 MO&O, 5 FCC Rcd. at 7097.

⁵ In its Notice of Proposed Rulemaking (at paragraph 5), the Commission solicited comments on the availability of alternative transmitter sites to serve Lake Havasu City. As Mojave indicated in its Petition, however, the Crossman Peak site specified in KMCC's outstanding construction permit is the only developed site of which Petitioner is aware, and it is limited by the unavailability of commercial electric power -- a limitation that Mojave believes will present additional difficulties in connection with the ultimate implementation of digital television (or "DTV") operations in the future. See Mojave Petition for Rulemaking at 3-4.

television network, Mojave expects that, when licensed to Laughlin, KMCC will be able to secure an NBC affiliation and provide network service and locally-oriented news and other non-network programming to a substantial population in southern Nevada previously unable to receive such service except via cable or translators. Thus, in addition to improving KMCC's prospects for economic success, the proposed reallocation will augment Mojave's ability to address the programming needs of the area the station will serve. Finally, the strengthened financial base made possible by the proposed reallocation will greatly enhance KMCC's prospects for a successful conversion to digital television operations.

Laughlin, Nevada Is an Independent and Rapidly Growing Community with a Strong Economic Base That Anchors the Surrounding Area and Provides the Foundation for Continued Development and Long-Term Financial Health.

Mojave's proposed new city of license for KMCC is the economic center of a rapidly growing community with an ever-increasing need for a local television transmission outlet. (Lake Havasu City, by contrast, is a relatively mature community with a more limited economic base and growth potential, and less prospect for substantial long-term growth or financial support for a new TV station. See Mojave Petition at 5-9.) As recognized in the Notice of Proposed Rulemaking, Laughlin is a Census Designated Place which is governed by a town advisory board and a town manager. Laughlin has its own library and medical center, as well as William G. Bennett Elementary School and Laughlin High School.⁶ Further, Laughlin is the site of the Community College of Southern Nevada - Laughlin campus.⁷ According to materials provided to Mojave by the Laughlin Chamber of Commerce, Laughlin

⁶ Laughlin Facts (<http://www.a2zlasvegas.com/hotels/laughlin/laugfact.html>) at 5.

⁷ Id.

also is served by the Laughlin substation of the Las Vegas Metropolitan Police Force, two fully staffed fire stations, and a Justice of the Peace.⁸

Laughlin and neighboring Bullhead City, Arizona are separated only by the Colorado River, which is spanned by a bridge connecting the two cities which is now used by approximately 50,000 residents and visitors daily.⁹ In addition, the \$23 million dollar Laughlin/Bullhead City Airport opened in 1992, serving both communities. The airport, which has a 7,500-foot runway and accommodates Boeing 737s, serves more than 20,000 passengers a month and logs 400 flights per week.¹⁰

As stated in the Mojave Petition, the Laughlin Chamber of Commerce estimated the 1996 population of Laughlin at 8,000 or more, with approximately 42,000 residing in the immediate Laughlin/Bullhead City/Southern Nevada area to be served by the proposed new TV facility.¹¹ The Laughlin Town Manager's office informed Mojave that the current population of Laughlin itself is estimated at approximately 8,000, but growth is expected to reach 11,227 by the year 2000 and 12,320 by 2002. Bullhead City is projected to have as many as 50,000 residents by 2000, and the adjacent unincorporated area has another 15,000 permanent residents.¹²

⁸ See Laughlin Chamber of Commerce Welcome Materials (Excerpts) (Attachment B hereto) (hereinafter cited as "LCC Materials".)

⁹ History of Laughlin (<http://www.a2zlasvegas.com/hotels/laughlin/histlaug.html>) at 5.

¹⁰ Laughlin Facts at 1.

¹¹ See Petition at 6-7. Mojave recognizes that Bullhead City also receives service from KMOH-TV, Kingman, Arizona. See pages 11ff., infra.

¹² See History of Laughlin at 5.

Although residential growth in Laughlin itself was temporarily slowed pending the release for development of lands under the control of the Bureau of Land Management (“BLM”), the Laughlin Town Manager’s office indicates that a noticeable turnaround has occurred recently. With the release of more BLM lands, the continued growth of the local gaming industry, and the influx of approximately 5 million visitors annually, “the picture for future growth is bright for the town.”¹³ Moreover, throughout the past several years, neighboring “Bullhead City and [adjacent] Mohave County, Arizona have experienced boom town conditions.”¹⁴ Ms. Brady indicates that the Bullhead City/Mohave County area, directly across the Colorado River from Laughlin, now has a permanent population estimated at more than 60,000.¹⁵

A representative of the Clark County Department of Comprehensive Planning informed Mojave that he anticipates the release of a substantial parcel of federal land for private development within the next two years, and that the population of Laughlin is expected to grow by 12,000 - 15,000 people when that development is completed. Indeed, the Laughlin Town Manager advised Mojave that the BLM has just released four sections of land for development. A rezoning effort is currently underway for a 200 - home development, and another project involving 300 - 400 new homes is nearly finished and almost sold out.

¹³ Letter from Jacquelyne A. Brady, Laughlin Town Manager (copy provided as Attachment C hereto).

¹⁴ Id.

¹⁵ Id.

Moreover, the figures on permanent residents substantially understate the number of people who would be served by Mojave's proposed Laughlin facility. The population of the Laughlin/Bullhead City area is augmented every year by 15,000 or more "snowbirds" -- visitors who winter in the area, living in recreational vehicles, campgrounds, and other similar facilities -- and by approximately five million visitors annually. The great majority of those visitors are drawn by the gaming and related entertainment establishments in Laughlin and the extensive boating and other recreational opportunities centered on the nearby Colorado River.¹⁶

As indicated in the Mojave Petition for Rulemaking, the major employers in the Laughlin area are the casinos and hotel/casinos and Southern California Edison Co., which operates a hydroelectric power generating plant. Since the filing of the Petition, an eleventh major casino has opened: the Avi Resort Casino, which is owned and operated by the Fort Mojave Indian Tribe and located just 11 miles south of Laughlin. The Avi, which has 25,000 square feet of gaming space and 301 hotel rooms, is the first of four planned casinos to be built on the Tribe's lands, anchoring a planned community along the Colorado River which could ultimately accommodate 40,000 residents, mostly non-Indian.¹⁷ Collectively, these Laughlin area casinos now employ as many as an estimated 14,000 persons.¹⁸

During the early 1990's, new construction within Laughlin itself was somewhat limited by constraints on the water supply and sewer facilities. However, Mojave is advised that in

¹⁶ Laughlin Facts at 2-4: See also LCC Materials.

¹⁷ See Petition at 8. See also LCC Materials.

¹⁸ See History of Laughlin at 4.

1994, a new wastewater treatment plant was completed which doubled the community's treatment capacity. Indeed, according to Laughlin developer and Town Board member Robert P. Bilbray, "the community planning for the last ten years has expended in excess of \$250 million in the infrastructure needed to sustain . . . continued economic growth."¹⁹ Comparable facilities do not exist in neighboring Mohave County, Arizona, and Laughlin, with gaming and tourism as its cornerstone, therefore is expected to be the vehicle for sustained economic growth in the area.

A major retail project completed in July 1996 has helped stimulate Laughlin's economy further. The Horizon Factory Outlet, located in the heart of Laughlin's gaming and entertainment district, has now expanded to over 60 stores and a food court along with a new movie complex with nine separate theatres, a convenience market, and pub.²⁰ Mojave is further advised that several of the existing casinos have plans for major expansion, and the Riverside Resort cinema (six theatres) also is planning a substantial expansion program, including the construction of a bowling alley.

A January 1999 study by the Nevada Cooperative Extension and Center for Economic Development of the University of Nevada, Reno, entitled Defining the Economic Interactions Between Laughlin, Nevada and Bullhead City, Arizona, serves to confirm the central importance of Laughlin to the economic health of the Laughlin/Bullhead City area.²¹ As noted

¹⁹ Letter from Robert P. Bilbray, President, Bilbray Industries (copy provided as Attachment D hereto).

²⁰ See LCC Materials.

²¹ The study is referred to herein as "Laughlin/BHC Interactions."

above, Laughlin's major economic base is casino gaming and related tourism. An estimated 26 percent of the casino workforce lives in Laughlin, with the remaining 74 percent commuting from Bullhead City and adjoining areas.²² Thus, Bullhead City provides a large portion of the labor force as well as many retail outlets and service facilities for both Bullhead City and Laughlin residents, but Laughlin provides the more substantial employment opportunities (and growth potential).²³

The 1999 study also emphasized that gaming-related tourism has grown substantially over the last several years. Based on the average length of stay by visitor type, the study estimated that the Laughlin/Bullhead City area had over 8.9 million "visitor days" in 1997. Visitor expenditures represented an estimated \$1.29 billion in total economic activity -- \$855 million in Laughlin, as compared to \$167 million in Bullhead City and \$270 million elsewhere in the surrounding unincorporated areas of Mohave County. Further, visitor expenditures represented \$250 million in total labor income -- again with the vast majority (\$193 million) going to Laughlin -- and 13,357 jobs, including 11,217 in Laughlin.²⁴

In short, Laughlin is a rapidly growing community that serves as the driving force behind economic development in the surrounding area. Mojave believes Laughlin will be far better able to support a new television station than Lake Havasu City, and submits that the proposed reallocation of Channel 34 (and paired DTV Channel 32) to Laughlin will serve the

²² Laughlin/BHC Interactions, at 114.

²³ Id. at 123.

²⁴ Id.